

The Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DAVID GOLDSTINE,

Plaintiff,

v.

FEDEX FREIGHT, INC., a Washington State
entity; "DOE(S) 1-100", employees of
FEDEX FREIGHT, INC.; and
CORPORATION(S) XYZ 1-100,

Defendants.

Case No. 2:18-cv-01164 MJP

**DECLARATION OF ADA K. WONG IN
SUPPORT OF PLAINTIFF'S MOTION
TO COMPEL FURTHER DISCOVERY
RESPONSES AND FOR ATTORNEY'S
FEES**

I, Ada K. Wong, declare,

1. I am the attorney of record for Plaintiff David Goldstine in this matter and make the following statements based on my personal knowledge.

2. On September 24, 2018, Plaintiff Goldstine served Defendant FedEx Freight, Inc. (hereinafter "FedEx") with Plaintiff's First Set of Interrogatories and Requests for Production to Defendant FedEx Freight, Inc. (hereinafter "Plaintiff's Discovery Requests"). Attached hereto as **Exhibit A** is a true and correct copy of Plaintiff's Discovery Requests.

1 3. On January 7, 2019, nearly four weeks after Plaintiff filed his initial Motion to
2 Compel Discovery Responses and for Attorney's Fees (hereinafter "First Motion to Compel"),
3 Defendant FedEx served its responses, titled "Initial Disclosures" and "Answer to Plaintiff's
4 First Set of Interrogatories." Attached hereto as **Exhibit B** is a true and correct copy of FedEx's
5 Initial Disclosures. Attached hereto as **Exhibit C** is a true and correct copy of FedEx's Answer
6 to Plaintiff's First Set of Interrogatories.

7 4. FedEx's "Initial Disclosures" provided written responses to Plaintiff's requests
8 for production, but were served without any responsive documents.

9 5. However, deficiencies in FedEx's discovery responses persisted, requiring
10 further meet and confer efforts.

11 6. On January 14, 2019, I e-mailed a letter to FedEx's counsel Medora Marisseau
12 and Jerrald Shivers outlining these deficiencies in advance of our meet and confer conference
13 scheduled for January 17, 2019. Attached hereto as **Exhibit D** is a true and correct copy of
14 my January 14, 2019 letter to Ms. Marisseau and Mr. Shivers.

15 7. On January 17, 2019, counsel held a telephonic meet and confer conference
16 regarding FedEx's's discovery responses. FedEx's counsel stated that FedEx would
17 supplement many of its interrogatory answers and produce responsive answers and documents.

18 8. During the January 17, 2019 meet and confer conference, FedEx's counsel
19 stated it was unable to provide me with a definite date as to when I should expect the
20 documents, but that they would let me know such a date by January 22, 2019. I stressed that I
21 wanted the responsive documents and supplemental answers by the end of January, especially
22 given the delay in receiving FedEx's initial responses only after Plaintiff filed his First Motion
23

1 to Compel. I also mentioned that Plaintiff did not prefer to file another motion to compel but
2 needed FedEx's full responses and documents soon to prepare to take depositions.

3 9. On January 22, 2019, I sent a letter via e-mail to Ms. Marisseau and Mr. Shivers
4 memorializing our January 17, 2019 meet and confer conference. Attached hereto as **Exhibit**
5 **E** is a true and correct copy of my January 22, 2019 letter to Ms. Marisseau and Mr. Shivers.

6 10. On January 23, 2019, after the Court approved Donald Snook's application to
7 appear *pro hac vice* on behalf of Defendant FedEx, I sent a follow-up e-mail to Ms. Marisseau
8 and Mr. Snook, inquiring about supplemental discovery responses and documents,
9 emphasizing the importance of receiving them by the end of January to avoid the need to
10 involve the court. Attached hereto as **Exhibit F** is a true and correct copy of my January 23,
11 2019 e-mail to Ms. Marisseau and Mr. Snook.

12 11. On January 25, 2019, Mr. Snook responded to me via e-mail stating that he
13 "cannot guarantee that I will get everything we discussed to you by the end of the month. But
14 I am attempting to get it all asap." I replied asking for a specific date and for the supplemental
15 answers, if not all responsive documents, by the end of January. Mr. Snook replied, "Yes, I
16 should be able to get the supplemental answers to you by the end of the month." Attached
17 hereto as **Exhibit G** is a true and correct copy of the aforementioned January 25, 2019 e-mail
18 chain between Mr. Snook and myself.

19 12. On January 31, 2019, Mr. Snook e-mailed me, stating "[w]e have had two
20 emergencies come up. I am working on the responses and will have something for you
21 tomorrow. I apologize for the delay." Having received no responses, on February 5, 2019, I
22 followed up yet again to inquire as to the progress of FedEx's responses. Attached hereto as
23

1 **Exhibit H** is a true and correct copy of the aforementioned January 31, 2019–February 5, 2019
2 e-mail chain between Mr. Snook and myself.

3 13. On February 8, 2019, I e-mailed a letter to Mr. Snook and Ms. Marisseau
4 regarding Plaintiff’s noting of the depositions of two key witnesses. In this letter, I also
5 reminded FedEx’s counsel that Plaintiff had still not received the promised responsive
6 documents to Plaintiff’s discovery requests and requested that FedEx serve them by Monday,
7 February 11, 2019. I communicated that if Plaintiff did not receive the responses by that date,
8 we reserved the right to immediately seek court intervention, though it was not our preferred
9 course of action. Attached hereto as **Exhibit I** is a true and correct copy of my February 8,
10 2019 letter to Mr. Snook and Ms. Marisseau.

11 14. To date, I have not received any additional communication from FedEx’s
12 counsel or even confirmation of when FedEx would serve the responses that Mr. Snook
13 promised by February 1, 2019. As such, the underlying Motion follows.

14 15. Time is of the essence as three depositions are schedule for March 2019: (1)
15 Rule 30(b)(6) Deposition of Defendant on March 21, 2019, (2) Deposition of David Appesland
16 on March 27, 2019, and (3) Deposition of Christy Tayman on March 28, 2019. Both Mr.
17 Appesland and Ms. Tayman are/were employees of Defendant. Attached hereto as **Exhibit J**
18 is a true and correct copy of Plaintiff’s Notice of Rule 30(b)(6) Deposition of Defendant on
19 March 21, 2019. Attached hereto as **Exhibit K** is a true and correct copy of Plaintiff’s Notice
20 of Deposition of David Appesland on March 27, 2019. Attached hereto as **Exhibit L** is a true
21 and correct copy of Plaintiff’s Notice of Deposition of Deposition of Christy Tayman on March
22 28, 2019.

1 16. Defense counsel are well aware of the upcoming depositions and the need for
2 Plaintiff's counsel to have the opportunity to thoroughly review any discovery responses and
3 documents, as well as engage in any further met and confer conferences if necessary, prior to
4 the depositions.

5 **Request for Attorney's Fees**

6 17. I received my Bachelor of Arts from the University of California, Davis in 2008.
7 I received my Juris Doctor with a Dispute Resolution Concentration from the University of
8 Washington School of Law in 2012. I was admitted to the California Bar in December 2012
9 and maintain an active license and practice in California state and federal courts. I was
10 admitted to the Washington Bar in May 2013. I am licensed in the Eastern District of
11 Washington, the Western District of Washington, the Northern District of California, the
12 Eastern District of California, and the Ninth Circuit Court of Appeals.

13 18. I graduated from college in 2 years and 1 quarter, then I worked and volunteered
14 in the legal profession for approximately 1.5 years before attending law school at the
15 University of Washington School of Law. I graduated from law school 1 quarter early and
16 worked as a law clerk at a plaintiff's civil litigation law firm in Bellevue. Upon being licensed,
17 I became an Associate Attorney at the Bellevue firm with active cases in California and
18 Washington.

19 19. In mid-2014, I transitioned to working at different plaintiff's civil litigation law
20 firm in Downtown Seattle. I handled cases in California and Washington.

21 20. In August 2015, I started my own law firm and continued to maintain an active
22 practice in California and Washington.

CERTIFICATE OF SERVICE

I hereby certify that on February 13, 2019, I caused to be electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

Medora A. Marisseau
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Donald H. Snook, TN Bar #21775
FedEx Freight, Inc.
1715 Aaron Brenner Drive, Suite 600
Memphis, TN 38120
E-mail: Donald.snook@fedex.com

Counsel for Defendant FedEx Freight, Inc.

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

DATED: February 13, 2019.

/s/ Kaila A. Eckert

Kaila A. Eckert, Paralegal